STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,)	
regarding the regulatory reviews, revisions,)	
determinations, and/or approvals necessary for)	Case No. U-18331
CONSUMERS ENERGY COMPANY to fully comp	ply)	
with Public Act 295 of 2008.)	
)	

At the September 28, 2017 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman Hon. Norman J. Saari, Commissioner Hon. Rachael A. Eubanks, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT

On May 31, 2017, Consumers Energy Company (Consumers) filed an application, with supporting testimony and exhibits, requesting authority to reconcile its 2016 energy optimization plan (EOP) revenues and expenses and requesting approval to collect an incentive payment for both the gas and electric EOPs.

A prehearing conference was held on July 12, 2017 before Administrative Law Judge Suzanne D. Sonneborn. The Commission Staff participated in the proceeding. Subsequently, the parties filed a settlement agreement resolving all issues in the case.

After review of the settlement agreement, the Commission finds that it is reasonable, in the public interest, and should be approved.

THEREFORE, IT IS ORDERED that:

- A. The settlement agreement, attached as Exhibit A, is approved.
- B. Consumers Energy Company's request to reconcile its 2016 energy optimization revenues and expenses is approved.
- C. Consumers Energy Company is authorized to recover an incentive payment for the performance of its 2016 energy optimization program portfolio.
- D. Consumers Energy Company is authorized to convert 67,696 energy optimization credits into renewable energy credits in 2016.
- E. Consumers Energy Company shall, 30 days before the January 2018 billing period, file a tariff sheet substantially similar to that set forth in Attachment C to the settlement agreement.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the Michigan Court of Appeals within 30 days of the issuance of this order, under MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpsecdockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

	MICHIGAN PUBLIC SERVICE COMMISSION
	Sally A. Talberg, Chairman
	Norman J. Saari, Commissioner
By its action of September 28, 2017.	Rachael A. Eubanks, Commissioner
By its action of September 28, 2017.	
Kavita Kale, Executive Secretary	

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, of the application of Consumers Energy Company for authorization to reconcile Its 2016 EO Plan results in association with the Plan approved in Case No. U-17771.))) _)	Case No. U-1833
In the matter, on the Commission's own motion, regarding the regulatory reviews, revisions, determinations, and/or approvals necessary for CONSUMERS ENERGY COMPANY to fully comply with Public Act 295 of 2008.))))	Case No. U-18331

SETTLEMENT AGREEMENT

Pursuant to MCL 24.278 and Rule 431 of the Rules of Practice and Procedure before the Michigan Public Service Commission ("MPSC" or the "Commission"), R 792.10431, the undersigned parties agree as follows:

WHEREAS, on May 31, 2017, Consumers Energy Company ("Consumers Energy" or the "Company") filed an Application with supporting testimony and exhibits requesting: a determination that the Company's 2016 Energy Optimization ("EO") Plan reconciliation is reasonable and prudent and meets all relevant requirements under 2008 Public Act 295 ("Act 295"); approval of the collection of an incentive payment for both the gas and electric EO plans; and approval of the conversion of 67,696 EO Credits into Renewable Energy Credits in 2016 for use in meeting the Company's renewable energy requirements under Act 295.

WHEREAS, the initial prehearing conference in this proceeding was held on July 12, 2017. The parties to the case are Consumers Energy and the Commission Staff.

NOW THEREFORE, for purposes of settlement of Case No. U-18331, the undersigned parties agree as follows:

sa0817-1-233

- 1. The parties agree that the Company's 2016 EO Plan reconciliation, as set forth in Consumers Energy's pre-filed testimony and exhibits in this case, is reasonable and prudent and meets all relevant requirements under Act 295.
- 2. The parties agree that the Company exceeded its statutory electric savings target with a Utility Cost Test ("UCT") score of 3.23 and exceeded its statutory gas savings target with a UCT score of 3.55, and thus the Company has earned an incentive payment for the performance of its 2016 electric EO Program portfolio in the amount of \$11,582,390 and \$6,640,135 for the performance of its 2016 gas EO Program portfolio. The calculation of these amounts is shown on Attachment A.
- 3. The parties agree that the amount of the incentive payment payable by each particular customer group and the associated surcharges are as shown on Attachment B.
- 4. The parties agree that pursuant to Generally Accepted Accounting Principles ("GAAP") the EO incentive must be fully collected by December 31, 2018, so that the revenue will be recorded within a two-year period as required by ASC 980-605-25. The parties thus agree that the incentive payment will be collected by the Company starting in January 2018 and ending in December 2018 as set forth on Attachment C to this Settlement Agreement. The

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 $^{^{1}}$ ASC 980-605-25 states that revenue recognition is appropriate when all of the following criteria are met:

[•] Criteria A: The program is established by an order from the utility's regulatory commission that allows for automatic adjustment of future rates. Verification of the adjustment of future rates by the regulator does not preclude the adjustment from being considered automatic;

[•] Criteria B: The amount of additional revenues for the period is objectively determinable and recovery is probable; and

[•] Criteria C: The additional revenues will be collected within the 24 months following the end of the annual period in which they are recognized.

The incentive in this proceeding meets Criteria A and B, however, collection of the incentive must be within 24 months to meet Criteria C. The EO incentive revenue has already been recognized on Consumers Energy's books as of December 2016. In order to comply with the 24-month collection requirement, Criteria C, the EO incentive of \$18.3 million needs to be fully collected by December 31, 2018. It is important to record the incentive revenue in the same period that the EO expenses are incurred to present a better picture of the true economics of the program. It also allows for consistent financial reporting as incentives will not be allocated over other various financial reporting periods.

Surcharge consists of both an incentive component and a plan component.² There is to be no interest on the incentive portion of the Surcharge. The tariff sheet will be issued prior to the January 2018 billing period.

- 5. The parties agree that the Commission should approve Consumers Energy's request to convert 67,696 EO Credits into Renewable Energy Credits in 2016.
- 6. This settlement is entered into for the sole and express purpose of reaching a compromise among the parties. All offers of settlement and discussions relating to this settlement are, and shall be considered, privileged under MRE 408. If the Commission approves this Settlement Agreement without modification, neither the parties to this Settlement Agreement nor the Commission shall make any reference to, or use, this Settlement Agreement or the order approving it, as a reason, authority, rationale, or example for taking any action or position or making any subsequent decision in any other case or proceeding; provided, however, such references may be made to enforce or implement the provisions of this Settlement Agreement and the order approving it.
- 7. This Settlement Agreement is based on the facts and circumstances of this case and is intended for the final disposition of Case No. U-18331. So long as the Commission approves this Settlement Agreement without any modification, the parties agree not to appeal, challenge, or otherwise contest the Commission order approving this Settlement Agreement. Except as otherwise set forth herein, the parties agree and understand that this Settlement Agreement does not limit any party's right to take new and/or different positions on similar issues in other administrative proceedings, or appeals related thereto.
- 8. This Settlement Agreement is not severable. Each provision of the Settlement Agreement is dependent upon all other provisions of this Settlement Agreement. Failure to

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² The Commission is only ruling on the incentive component in this case.

comply with any provision of this Settlement Agreement constitutes failure to comply with the entire Settlement Agreement. If the Commission rejects or modifies this Settlement Agreement or any provision of the Settlement Agreement, this Settlement Agreement shall be deemed to be withdrawn, shall not constitute any part of the record in this proceeding or be used for any other purpose, and shall be without prejudice to the pre-negotiation positions of the parties.

- 9. The parties agree that approval of this Settlement Agreement by the Commission would be reasonable and in the public interest.
- 10. The parties agree to waive Section 81 of the Administrative Procedures Act of 1969 (MCL 24.281), as it applies to the issues resolved in this Settlement Agreement, if the Commission approves this Settlement Agreement without modification.

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WHEREFORE, the undersigned parties respectfully request the Michigan Public Service Commission to approve this Settlement Agreement on an expeditious basis³ and to make it effective in accordance with its terms by final order.

MICHIGAN PUBLIC SERVICE **COMMISSION STAFF**

Spencer Sattler

Digitally signed by Spencer Sattler DN: cn=Spencer Sattler, o=Michigan Department of Attorney General, ou=Public Service Division, email=sattlers@michigan.gov, c=US Date: 2017.09.13 08:55:35 -04'00'

By:

Spencer A. Sattler, Esq. (P70524) **Assistant Attorney General Public Service Division** 7109 West Saginaw Highway Post Office Box 30221 Lansing, MI 48909

Date: September 13, 2017

CONSUMERS ENERGY COMPANY

Digitally signed by Gary A. Gensch, Jr. Date: 2017.09.08 08:34:08 -04'00'

By:

Gary A. Gensch, Jr. (P66912) Attorney for Consumers Energy One Energy Plaza Jackson, MI 49201

Date: September 8, 2017

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³ In order to achieve compliance with the GAAP described in paragraph 4 of this Settlement Agreement, the parties request Commission approval of this Settlement Agreement by the end of 2017, to ensure the incentive payment will begin to be collected in January 2018.

MICHIGAN PUBLIC SERVICE COMMISSION

Consumers Energy Company

Case No.: U-18331 Exhibit: A-10 (HWM-5) Witness: HWMiller III Date: May 2017 Page 1 of 1

2016 Electric and Gas Financial Incentive

(a) (b) (c) (d)

		Performance M	etrics (1)	Financial Incentive			
Line No.	Description	Target	Achieved	Metric Weight (2)	Incentive Earned		
1	Electric Lifetime Energy Savings (MWh)	3,840,343	5,833,796	80.00%	\$ 9,265,912		
2	Low Income Program (MWh)	2,922	5,540	13.33%	1,543,933		
3	ENERGY STAR Benchmarking for Business	136	218	6.67%	772,545		
4	Incentive Total			100.00%	\$ 11,582,390		
	Natural Gas						
5	Lifetime Energy Savings (Mcf)	24,812,656	35,789,095	80.00%	\$ 5,312,108		
6	Low Income Program (Mcf)	76,186	90,600	13.33%	885,130		
7	Business New Construction	33,025	64,063	6.67%	442,897		
8	Incentive Total			100.00%	\$ 6,640,135		

<u>Notes</u>

⁽¹⁾ Lifetime energy savings metric Exhibit A-6 (HWM-1), page 42; business metrics Exhibit A-2 (JJK-1), page 96; and residential metrics Exhibit A-1 (ACE-1), page 20.

⁽²⁾ WP-HWM-2

MICHIGAN PUBLIC SERVICE COMMISSION

Consumers Energy Company

Electric EO Surcharge Incentive Component Calculated Without Interest and Collected over 12 Months Case No: U-18331 Exhibit: A-14 (SAS-1) Witness: SASmith Date: May 2017 Page 1 of 1

<u>Line</u>	<u>Description</u>	Low-Income Cost <u>Responsibility (1)</u> (\$)	Proration <u>Factor (2)</u>	Surcharge <u>Obligation (3)</u> (\$)	Customer Group Surcharge Annual <u>Determinants (4)</u> (kWh or Cust.) (5)	! Incent	Monthly Electric EO Surcharge ive Component Wh or Cust.) (5)
	(a)	(b)	(c)	(d)	(e)		(f)
1	Residential	\$1,661,330	0.4359	\$ 4,863,897	12,341,717,000	\$	0.000394
2	Small Secondary	131,584	0.0345	\$ 385,241	1,723,436	\$	0.22
3	Medium Secondary	230,871	0.0606	\$ 675,923	535,490	\$	1.26
4	Large Secondary	833,766	0.2188	\$ 2,441,027	314,492	\$	7.76
5	Small Primary	858	0.0002	\$ 2,513	5,412	\$	0.46
6	Sm. Med. Primary	2,670	0.0007	\$ 7,818	2,184	\$	3.58
7	Medium Primary	17,167	0.0045	\$ 50,259	5,428	\$	9.26
8	Lg. Med. Primary	27,658	0.0073	\$ 80,973	4,591	\$	17.64
9	Large Primary	905,356	0.2375	\$ 2,650,621	28,340	\$	93.53
10	Total	\$3,811,259	1.0000	\$ 11,158,273 (6)			

⁽¹⁾ Case No. U-17771, WP-JCA-2, Year 2016

⁽²⁾ Proration factor developed per customer group share (col. b, lines 1-9) of total (col. b, line 10).

⁽³⁾ Customer group surcharge obligation based on customer group share (col. c, lines 1-9) of total obligation (col. d, line 10).

⁽⁴⁾ Case No U-18261 WP-SAS-6, WP-SAS-7, WP-SAS-8

⁽⁵⁾ Residential group surcharge on a \$/kWh basis, while C&I customer surcharge on a \$/customer meter basis.

⁽⁶⁾ Surcharge obligation of \$11,582,390 per Exhibit A-10 (HWM-5) less 2014 Over-Recovery of \$424,117 per Exhibit A-5 (SL-3), pg 2.

Attachment B Page 2 of 2

MICHIGAN PUBLIC SERVICE COMMISSION

Consumers Energy Company

Case No: U-18331 Exhibit: A-15 (SAS-2) Witness: SASmith Date: May 2017 Page 1 of 1

Gas EO Surcharge Incentive Component Calculated Without Interest and Collected over 12 Months

<u>Line</u>	<u>Description</u>	Low-Income Cost <u>Responsibility (1)</u> (\$)	Proration Factor (2)	Surcharge Obligation (3) (\$)	Customer Group Surcharge Annual <u>Determinants (4)</u> (Mcf)	(Si <u>Incentiv</u>	Monthly Gas EO urcharge <u>re Component</u> per Mcf)
_	(a)	(b)	(c)	(d)	(e)		(f)
1	Residential	\$4,807,022	0.6363	\$ 4,383,413	159,723,000	\$	0.0274
2	Small C&I (< 100,000 Mcf)	2,691,707	0.3563	\$ 2,454,506	87,477,588	\$	0.0281
4	Large C&I (> 100,000 Mcf)	55,762	0.0074	\$ 50,848	54,058,289	\$	0.0009
5	Total	\$7,554,491	1.0000	\$ 6,888,767 (5)		

⁽¹⁾ Case No. U-17771, WP-JCA-3, Year 2016

⁽²⁾ Proration factor developed per customer group share (col. b, lines 1-3) of total (col. b, line 4).

⁽³⁾ Customer group surcharge obligation based on customer group share (col. c, lines 1-3) of total obligation (col. d, line 4).

⁽⁴⁾ Case No U-18261, WP-SAS-13

⁽⁵⁾ Surcharge obligation of \$6,277,944 per Exhibit A-10 (HWM-5) plus 2014 Under-Recovery of \$248,632 per Exhibit A-5 (SL-3), pg 3.

MICHIGAN PUBLIC SERVICE COMMISSION

Consumers Energy Company

M.P.S.C. No. 13 - Electric Consumers Energy Company Case No.: U-18331 Exhibit: A-16 (SAS-3) Witness: SASmith Date: May 2017 Page 1 of 1

Sheet No. D-2.10

SURCHARGES

						Energy Efficiency
	R	enewable Energy	E	nergy Efficiency		Self-Directed
		Plan Surcharge		ogram Surcharge	Cr	stomer Surcharge
		Case No. U-17301)		Case No. <i>U-18331</i>)		ase No. U-18331)
		ctive beginning the		tive beginning the		
Data Calcadada						ective beginning the
Rate Schedule		2014 Billing Month ⁽⁵⁾		2018 Billing Mont	n ^{es} <u>January</u>	2018 Billing Month (2)
Residential Rates	\$	0.00/billing meter	\$	0.002891/kWh		NA
Rate GS, GSTU, and GSD (1)		0.004.111	d.	1 (0 11 11 11 11 11 11 11 11 11 11 11 11 11		A 0 0 5 7 1111
Tier 1: $0 - 1,250 \text{ kWh/mo}$.	\$	0.00/billing meter	\$	1.60/billing meter		\$ 0.06/billing meter
Tier 2: $1,251 - 5,000 \text{ kWh/mo}$.		0.00/billing meter		9.09/billing meter		0.34/billing meter
Tier $3: 5,001 - 30,000 \text{ kWh/mo}$.		0.00/billing meter		55.40/billing meter		2.04/billing meter
Tier 4: 30,001 – 50,000 kWh/mo.		0.00/billing meter		55.40/billing meter		2.04/billing meter
Tier $5: > 50,000 \text{ kWh/mo}$.		0.00/billing meter		55.40/billing meter		2.04/billing meter
Rate GP, GPD, GPTU and EIP (1)						
Tier 1: $0 - 5{,}000 \text{ kWh/mo}$.	\$	0.00/billing meter	\$	3.38/billing meter		\$ 0.12/billing meter
Tier 2: 5,001 – 10,000 kWh/mo.		0.00/billing meter		26.42/billing meter		0.97/billing meter
Tier 3: 10,001 – 30,000 kWh/mo.		0.00/billing meter		68.72/billing meter		2.55/billing meter
Tier 4: 30,001 – 50,000 kWh/mo.		0 00/billing meter		123.98/billing meter		4.51/billing meter
Tier $5: > 50,000 \text{ kWh/mo}$.		0.00/billing meter	(661.24/billing meter		22.76/billing meter
Rate GSG-2		NĀ		$NA^{(4)}$		NA
Rate GML ⁽⁶⁾						
Tier 1: $0 - 1,250 \text{ kWh/mo}$.	\$	0.00/billing meter		NA		NA
Tier 2: $1,251 - 5,000 \text{ kWh/mo}$.		0.00/billing meter		NA		NA
Tier $3: > 5,000 \text{ kWh/mo}$.		0.00/billing meter		NA		NA
Rate GUL ⁽⁶⁾		0.00/luminaire		NA		NA
Rate GU-XL ⁽⁶⁾		0.00/luminaire		NA		NA
Rate GU						
Tier 1: $0 - 1,250 \text{ kWh/mo}$.		0.00/billed account		NA		NA
Tier 2: 1,251 – 5,000 kWh/mo.		0.00/billed account		NA		NA
Tier $3: > 5,000 \text{ kWh/mo}$.		0.00/billed account		NA		NA
Rate PA		NA		NA		NA
Rate ROA-R, ROA-S, ROA-P		NA	As in De	livery Rate Schedule	As in Delivery	Rate Schedule

All Surcharges shall be applied on a monthly basis. The customer's consumption will be reviewed annually in the January bill month. Following the annual review, the customer may be subsequently moved to the Surcharge level for their applicable rate for the next billing period based on the customer's average consumption for the previous year. In situations where no historical consumption is available, the monthly Surcharge level will be based on the lowest consumption category for the secondary rate schedules or the lowest consumption category for primary rate schedules. No retroactive adjustment will be made due to the application of the REP or EE Surcharges associated with increases or decreases in consumption.

Issued XXXX XX, XXXX by Patti Poppe, President and Chief Executive Officer, Jackson, Michigan Effective for bills rendered on and after the January 2018 billing month

Issued under authority of the Michigan Public Service Commission dated XXXX XX, XXXX in Case No. U-18331

⁽¹⁾ Municipal Pumping customers shall be excluded from the Renewable Energy Plan Surcharge.

⁽²⁾ An eligible customer who files and implements a self-directed plan in compliance with Rule C12 is required to pay the Energy Efficiency Self-Directed Program Surcharge.

⁽³⁾ An Energy Efficiency Program Surcharge will be in effect for the period of the June 2009 Bill Month through the December 2017 Bill Month. The amount may vary during specific months as authorized by the Michigan Public Service Commission. Applicable cases include Case Nos. U-15805, U-16302, U-16303, U-16412, U-16670, U-16736, U-17281, U-17351, U-17601, U-17831, U-17771, U-18025 and U-18331. The Surcharge for the period of the January 2017 Bill Month through the December 2017 Bill Month includes a financial incentive award in Case No. U-18025 and low-income accounting adjustment in Case No. U-17771, both of which were approved by the Michigan Public Service Commission. The Company will file a new tariff sheet to reflect the change in surcharges once the financial incentive recovery period has been completed.

⁽⁴⁾ Rate GSG-2 Customers are eligible to opt-in to the Energy Efficiency Electric Program Surcharge. A GSG-2 customer electing to participate in the Energy Efficiency Electric Program will be charged the GPD, Tier 5: > 50,000 kWh/mo rate of \$662.40 per billing meter per month.

(5) A Renewable Energy Plan Surcharge will be in effect for the period of the September 2009 Bill Month through the August 2029 Bill Month. The amount may vary during specific months as authorized by the Michigan Public Service Commission. Applicable cases include Case Nos. U-15805, U-16543, U-16581 and U-17301.

⁽⁶⁾ Customer-Owned lighting fixtures served on Rate GML, GUL and Rate GU-XL are eligible to opt-in to the Energy Efficiency Program Surcharge. A GML, GUL or GU-XL customer electing to participate in the Energy Efficiency Electric Program will be charged the applicable surcharge as shown for Rate GS, GSTU, and GSD or Rate GP, GPD, GPTU and EIP, as applicable, per participating account per month.

Attachment C Page 2 of 2

MICHIGAN PUBLIC SERVICE COMMISSION

Consumers Energy Company

M.P.S.C. No. 2 - Gas Consumers Energy Company Case No.: U-18331 Exhibit: A-17 (SAS-4) Witness: SASmith Date: May 2017 Page 1 of 1

Sheet No. D-1.10

SURCHARGES

Each Rate Schedule may be subject to Rule No. C8., Customer Attachment Program.

Rate Schedule	Energy Efficiency ⁽¹⁾ Program Surcharge (Case No. <i>U-18331</i>) Effective beginning the ⁽²⁾ January 2018 Billing Month	Energy Efficiency Large Gas Transportation Opt-Out Pilot Program Surcharge (Case No. <i>U-18331</i>) ⁽³⁾
Rate A	\$0.2009/Mcf	NA
Rate A-1	0.2009/Mcf	NA
Rate GS-1	0.1513/Mcf	NA
Rate GS-2	0.1513/Mcf	NA
Rate GS-3		
0 - 100,000 / Year	0.1513/Mcf	NA
> 100,000 / Year	0.0048/Mcf	NA
Rate GL	NA	NA
Rate ST		
0 - 100,000 / Year	0.1513/Mcf	NA
> 100,000 / Year	0.0048/Mcf	\$0.0018/Mcf
Rate LT		
0 - 100,000 / Year	0.1513/Mcf	NA
> 100,000 / Year	0.0048/Mcf	0.0018/Mcf
Rate XLT		
0 - 100,000 / Year	0.1513/Mcf	NA
> 100,000 / Year	0.0048/Mcf	0.0018/Mcf
Rate CC	Per applicable distribution Rate Schedule	NA

⁽¹⁾ All surcharges shall be applied on a monthly basis. The customer's consumption will be reviewed annually in the January bill month. Following the annual review, the customer may be subsequently moved to the surcharge level for their applicable rate for the next billing period based on the customer's average consumption for the previous year. No retroactive adjustment will be made due to the application of EE surcharges associated with increases or decreases in consumption.

Issued XXXX XX, XXXX by Patti Poppe, President and Chief Executive Officer, Jackson, Michigan Effective for bills rendered on and after the January 2018 Billing Month

Issued under authority of the Michigan Public Service Commission dated XXXX XX, XXXX in Case No. U-18331

⁽²⁾ An Energy Efficiency Program Surcharge will be in effect for the period of the June 2009 Bill Month through the December 2017 Bill Month. The amount may vary during specific months as authorized by the Michigan Public Service Commission. Applicable cases include Case Nos. U-15889, U-16302, U-16303, U-16412, U-16770, U-16736, U-17281, U-17351, U-17601, U-17831, U-17771, U-18025 and U-18331. The surcharge for the period of the January 2017 Bill Month through the December 2017 Bill Month includes a financial incentive award in Case No. U-18025 and low-income accounting adjustment in Case No. U-17771, both of which were approved by the Michigan Public Service Commission. The Company will file a new tariff sheet to reflect the change in surcharges once the financial incentive recovery period has been completed.

⁽³⁾ Gas Transportation customers on Rate ST, LT or XLT using more than 100,000 Mcf per year may be eligible to opt-out of the Energy Efficiency program. Eligible customers who elect to opt-out of the Energy Efficiency program will pay the Energy Efficiency Large Gas Transportation Opt-Out Pilot Program surcharge per Mcf on a monthly basis. Eligibility is determined solely by the Company and is dependent upon terms and conditions of the Energy Efficiency Large Gas Transportation Customer Opt-Out Pilot Program as authorized in the April 17, 2012 order in Case No. U-16670.